



THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, NY 10007

ZACHARY W. CARTER
Corporation Counsel

SUZANNE E. FUNES
Senior Counsel
phone: (212) 356-2386
fax: (212) 356-1148
email: sfunes@law.nyc.gov

August 28, 2019

VIA ECF

Honorable Roanne L. Mann
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Jazmine Headley, on her own behalf and on behalf of her minor son D.B. v. City of New York, et al., 19-CV-4543 (ENV)(RLM)

Your Honor:

I am a Senior Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, and the attorney for defendant City of New York (“City”). I write with the consent of plaintiff’s counsel, Emma Freeman, Esq. to respectfully request that the Court grant defendant City a sixty (60) day extension of time from September 3, 2019 to November 4, 2019 within which it may answer or otherwise respond to the complaint. This is the first request for an extension of time to respond to the complaint.

Plaintiff has named the following individuals as defendants: Human Resources Authority (“HRA”) Peace Officer Bettina Barnett-Weekes; HRA Sergeant Toyin Ramos-Williams; Peace Officer Mayra Rivera; Juanita Alston; and New York City Police Department Officer Shawndel Latham (collectively, the “named defendants”). The docket sheet does not indicate whether any of the aforementioned named defendants were served with a copy of the summons and complaint. Insofar as any of the named defendants have been served, a decision concerning this Office’s representation of each of them has not yet been made. Accordingly, this request for an extension of time is not made on their behalf, however, the undersigned hopes that the Court will *sua sponte* extend the time for each named defendant to respond to the complaint sixty (60) days from the date that they are each served.

There are several reasons for seeking an enlargement of time in this matter. In accordance with this office’s obligations under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations of the complaint. In her complaint, plaintiff alleges, *inter alia*, that on December 7, 2018, defendants unlawfully arrested plaintiff. Accordingly, it is

necessary for our office to acquire as much information as possible concerning this matter in order to properly assess this case and respond to the complaint. Because plaintiff alleges her criminal charges were dismissed, those records are presently sealed pursuant to NY CPL § 160.50. This office has provided plaintiff's counsel with the necessary §160.50 release and will, upon receipt of the properly completed release, forward the release to the appropriate agencies. It generally takes at least thirty days for this office to obtain the relevant sealed criminal records.

Additionally, pursuant to section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individually named defendants. The named defendants must then decide whether they wish to be represented by this office. If so, we must obtain their written authorization. Only after this procedure has been followed can we determine how to proceed in this case. See Mercurio v. City of New York, 758 F.2d 862, 854-65 (2d Cir. 1985) (quoting Williams v. City of New York, 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

Accordingly, defendant City respectfully requests that the Court grant defendant until November 4, 2019, to answer or otherwise respond to the complaint. Additionally, the undersigned hopes that the Court, *sua sponte*, extend the time for defendants HRA Peace Officer Bettina Barnett-Weekes; HRA Sergeant Toyin Ramos-Williams; Peace Officer Mayra Rivera, Juanita Alston, and New York City Police Department Officer Shawndel Latham to answer or otherwise respond to the complaint 60 days from the date each of them are served.

Thank you for your consideration herein.

Respectfully submitted,

Suzanne Funes
Suzanne E. Funes

cc: All Counsel (via ECF)